

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NANCY ESPERANZA MATIZ,)	
Petitioner,)	
)	C.A. No. 05-10398-MLW
v.)	
)	
WARDEN M. RIVERA,)	
Respondent.)	

ORDER Re: Motion for Reconsideration (Docket No. 4)

Petitioner Matiz filed this Section 2241 petition while incarcerated at FCI Danbury.¹ By Memorandum and Order dated June 24, 2005, the instant Section 2241 habeas action was dismissed. On July 26, 2005, petitioner simultaneously filed a Motion for Reconsideration, see Docket No. 4) and a Notice of Appeal. See Docket No. 5.

The Supreme Court has provided the courts with clear direction as to how to proceed when a defendant simultaneously files a notice of appeal with the appellate court and a motion for reconsideration with the district court. "The filing of a notice of appeal is an event of jurisdictional significance--it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58, 103 S.Ct. 400, 402 (1982); See Aportria v. Maine Turnpike Authority, 672 F.Supp. 536 (D. Me. 1987)

¹The records of the Federal Bureau of Prisons indicate that petitioner is currently an inmate at FCI Tallahassee.

(explaining that district court lacks jurisdiction to rule on Rule 60(b) motion after notice of appeal has been filed).

Since petitioner filed a notice of appeal simultaneously with her motion for reconsideration, this Court has been divested of jurisdiction over the motion. Accordingly, petitioner's motion is denied without prejudice.

ORDERS

Based upon the foregoing, it is hereby

ORDERED, petitioner's motion for reconsideration (Docket No. 4) is denied without prejudice; and it is further

ORDERED, the Clerk mail a copy of this Order to petitioner as follows: Nancy Esperanz Matiz, No. 18492-038, FCI Tallahassee, Federal Correctional Institution, 501 Capital Circle, NE, Tallahassee, FL 32301; and it is further

ORDERED, the Clerk shall transmit this Order as a supplemental record to the First Circuit Court of Appeals.
SO ORDERED.

February 9, 2006
DATE

/s/ Mark L. Wolf
MARK L. WOLF
UNITED STATES DISTRICT JUDGE